Species Protection: Impacts on Coast Guard Operations

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Species Protection - Coastal Zone Management Act

- Federal consistency – Federal actions that are reasonably likely to affect any land or water use ***or natural resource of the coastal zone*** must be consistent to the maximum extent practicable with the enforceable policies of a coastal state's federally approved coastal management program

CZMA -Requirements

- Federal action must be consistent to the **maximum extent practicable**
- with **enforceable policies** of
- **approved** state management program

CZMA - Procedures

- Federal agency determines if CCD is required
  - Based on list of activities in approved state program
  - Past Federal agency practice
  - State response to notice under F.R. or E.O. 12372
- Notice of decision not to prepare CCD may be required
- State can dispute Federal decision not to do CCD

CZMA - If CCD Is Prepared:

- State must respond within 45 days
  - One 15 day and limitless "political" extensions possible
- Agreement presumed if no response
- Communicating with State can be confusing - (clearing house system not always functional)

CZMA - NOAA (OCRM's) Angle:

- Attempt to extend reach through expanding definition of "coastal use or resources" - applied to resources, "even when…outside the coastal zone."
- April 2000 NPRM scaled back - state reach will be limited to Federal activities affecting coastal resources within the approved zone.

Coast Guard's Uniqu
Species Protection I
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Enforcement/Compl
e

- Fisheries & Law Enforcement Role - Ports & Waterways Safety Act / Magnuson Act
- Operate vessels/aircraft in 10 mission areas:
  - SAR; Rec Boatg Safety; Marine Env Prot; ATON; Radio Aids; VTS; Ice Ops; Law Enf (Fish, Drugs, Migrants); Marine Safety; Def Ops

Enforcement - Florida Manatee Protection

- Marine Event Permitting:
  - Hundreds of speed boat events in manatee habitat.
  - CG Proposal to streamline process resisted by FWS.
  - New approach will all for general permit in areas where interaction is unlikely.

Makah Tribe Whale Hunt

- Coast Guard tasked with enforcing safety zone around tribal canoe during hunt authorized per 1859 treaty.
- Vigorous “interaction” with NGO’s opposed to hunt.

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Whale protest incident ignores nation of laws

Friday, April 21, 2000 **SEATTLE POST-INTELLIGENCER EDITORIAL BOARD**

"Our law," said Johnathan Paul, spokesman for Ocean Defense International, "is the higher law." Paul made the declaration yesterday in the aftermath of frightening collision off Neah Bay.

Whaling protester run over by Coast Guard must do community work

Saturday, September 2, 2000 **POST-INTELLIGENCER STAFF and NEWS SERVICES**

TACOMA -- A Seattle woman who broke her shoulder when she was run over by a Coast Guard boa protest in April was ordered yesterday to perform 120 hours of community service for racing her p too close to a Makah Indian canoe. But the sentencing of Erin Abbott, 24, won't bring an end to th Her lawyer, said he will file a civil damage suit against the U.S. Coast Guard within 60 days for running her down with a 21-foot inflatable boat. The Coast Guard has said it regrets injuring Abbo unable to stop its boat any quicker.

MBTA Compliance - Osprey

- Raptors use CG ATON platforms as nesting platforms.
- Need for ATON maintenance interferes with osprey habits.
- Consultation with FWS limits/avoids interference.

Northern Right Whale

- Long-term litigation led to vessel operational changes - speed; lookouts, etc.
- Enforcement impacts due to NMFS push for ship reporting system.
- New requirements likely if new
  e.

Steller Sea Lion

- Sea lion likes ATON structures for sunning.
- ATON Maintenance impacts.
- Resolution with MMC similar to osprey case.

Steller's Eider

- FWS proposes to expand Alaska critical habitat.
- Potential impact on Coast Guard facility and ops in Kodiak. Working with FWS to limit impact.

USAF Adv E Law

Nov '00